

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

LIFESCIENCE TECHNOLOGIES, LLC,

Plaintiff,

V.

Case No.: 4:21-cv-01279-SEP

MERCY HEALTH, MERCY ACO  
CLINICAL SERVICES, INC., d/b/a  
MERCY VIRTUAL, LLC, and  
MYIA LABS, INC., d/b/a MYIA  
HEALTH,

Defendants.

**MOTION FOR ORDER DIRECTING THE PARTIES  
TO CONFER PURSUANT TO RULE 26**

Pursuant to Local Rule 4.01, Plaintiff LifeScience Technologies, LLC (“LST”) respectfully requests that the Court issue an order directing Defendants Mercy Health and Mercy ACO Clinical Services, Inc. d/b/a Mercy Virtual’s (“Mercy Defendants”) and Myia Labs, Inc. (“Myia”) (collectively “Defendants”) to participate in a conference pursuant to Fed. R. Civ. P. 26(f) by no later than January 26, 2022, and to present a draft discovery plan to the Court by no later than February 9, 2022. In support of this Motion, LST states as follows:

1. Rule 26(f) requires the parties to confer on “the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; . . . arrange[ments] for the disclosures required by Rule 26(a)(1); . . . any issues about preserving discoverable information; and develop a proposed discovery plan.” Fed. R. Civ. P. 26(f)(2).

2. Rule 26(f) requires the parties to conduct this conference “as soon as practicable—and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b).” Fed. R. Civ. P. 26(f)(1).

3. Fed. R. Civ. P. 16(b)(2) requires the Court to enter a Rule 16 Scheduling Order within 60 days of when any defendant appears:

The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

Fed. R. Civ. P. 16(b)(2). Counsel for the Mercy any Myia Defendants filed entries of appearance on November 12, 2021. *See* ECF Nos. 19–21, 23, 24.

4. Plaintiff attempted to confer with Defendants Pursuant to Rule 26(f) and sent Defendants a draft Joint Proposed Case Management Order.

5. Despite Plaintiffs’ request to confer, Defendants refuse to participate in a Rule 26(f) conference or to engage with Plaintiff on a discovery plan.

6. Defendants’ refusal is contrary to the Federal Rules, the Advisory Committee Notes to the Rules, and voluminous case law. Regrettably, Plaintiffs are now forced to ask the Court to order Defendants to fulfill their duty under the Federal Rules.

WHEREFORE, LST respectfully requests that this Court enter an order requiring Defendants Mercy and Myia to participate in a Rule 26(f) conference by no later than January 26, 2022, and to submit a discovery plan to the Court by no later than February 9, 2022.

Date: January 12, 2022

Respectfully submitted,

**STINSON LLP**

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*Attorneys for Plaintiff LifeScience Technologies,  
LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 12, 2022, the foregoing was filed electronically using the CM/ECF system which will automatically provide notice to all attorneys of record by electronic means.

/s/J. Nicci Warr